IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINETH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.22281 of 1995

Between:

Smt. S. Niyaz Fatima W/o Hasan Masood
r/o Hanumakonda, Warangal Dist.

..... PETITIONER

AND

1 THE COMMISIONER, MUNICIPAL CORPORATION OF WARANGAL, WARANGAL
2 THE VICE-CHAIRMAN, KAKATIYA URBAN DEVELOPMENT

AUTHORITY, WARANGAL.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus directing the respondents not to form or lay any road effecting the property of the petitioner bearing Nos.6-6-45 and 6-6-49(6/903/2 and 6/904 old) of Raipura, Hanumakonda, Warangal Dist., without following the procedure of law for acquisition and the procedure under Hyderabad Municipalities Act by holding the action to interfere with the property of the petitioner for demolition as illegal, arbitrary and violative of principles of natural justice.

Counsel for the Petitioner: MR.ADDEPALLI SURYANARAYANA

Counsel for the Respondent No.1: Standing counsel for MCH

Counsel for the Respondent No.2: Standing counsel for KUDA.

The Court made the following :

ORDER:

The petitioner, in this writ petition, seeks to direct the respondents not to form or lay any road affecting her shops bearing Nos.6-6-45 and
6-6-49 (Old Nos.6/903/2 and 6/904) of Raipura, Hanumakonda, Warangal District without following due process of law and procedure under Hyderabad Municipalities Act for acquisition of the same.

The case of the petitioner in brief is that she is the absolute owner of shops bearing Nos.6-6-45 and 6-6-49 (Old Nos.6/903/2 and 6/904), which were constructed in the year 1963 after obtaining necessary permission from the Municipality authorities. In the year 1994 when the Municipality Authorities tried to widen the road by dismantling her shops illegally without giving any notice and without initiating acquisition proceedings, she filed writ petition No.20109 of 1994 and by order dated 29.11.1994 this Court directed the respondents to issue notice to the petitioner and pass orders after considering her explanation. It is alleged that without issuing any notice, on 26.09.1995 the officials of first respondent came to her shops and demanded her to vacate the premises within three days, failing which they would demolish the structures for widening the road. Hence, the present writ petition.

A counter-affidavit is filed by the respondents denying the allegations made by the petitioner and stating that it is not known whether the petitioner has obtained any permission from the then Municipality in the year 1963 for construction of shops. They neither tried to demolish the structures belonging to the petitioner nor threatened her to vacate the premises for widening the road, as such no notice is necessary to be issued and no need to initiate land acquisition proceedings.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

In the circumstances of the case, the writ petition is disposed of with a direction to respondents to follow due procedure prescribed under law, in the event of acquiring the land of the petitioner for widening the road. No costs.

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(N.V. RAMANA, J)

Date: 29.10.2004

Nsr/Tvk

To

1 THE COMMISIONER, MUNICIPAL CORPORATION OF WARANGAL, WARANGAL
2 THE VICE-CHAIRMAN, KAKATIYA URBAN DEVELOPMENT

AUTHORITY, WARANGAL.
3 Two CD copies.